

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3

4 UNITED STATES OF AMERICA,

No. CR 10-681-2 CW

5 Plaintiff,

6 v.

7 ROYRICK DWAYNE MILLER,

ORDER DENYING
GOVERNMENT'S
MOTION TO STAY

8 Defendant.

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11 Defendant, a federal prisoner, has filed a motion under 28
12 U.S.C. § 2255 to correct his sentence based on the Supreme Court's
13 decision in Johnson v. United States, 135 S. Ct. 2551 (2015). The
14 government has now filed a motion to stay the proceedings pending
15 the resolution of Beckles v. United States, S. Ct. Case No. 15-
16 8544, in which the Supreme Court will address the applicability of
17 Johnson to the residual clause of the Career Offender provision of
18 the United States Sentencing Guideline and, if it is applicable,
19 whether Johnson applies to collateral challenges to federal
20 sentences enhanced based on the residual clause of the Career
21 Offender Guideline.

22 Having considered the government's motion and the record in
23 the case, the Court DENIES the motion. Docket No. 97. Judicial
24 economy is not alone enough to justify a potentially lengthy stay
25 in habeas cases. Yong v. INS, 208 F.3d 1116, 1120-21 (9th Cir.
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1 2000). Like a habeas petition, a § 2255 motion "challenging
2 illegality of detention, is reduced to a sham if trial courts do
3 not act within a reasonable time." Id. at 1120 (quoting Jones v.
4 Shell, 572 F.2d 1278, 1280 (8th Cir. 1978)) (internal alteration
5 marks omitted). Time could be of the essence for defendants
6 challenging sentences enhanced based on the residual clause of the
7 Career Offender Guideline. Even in non-habeas cases, the Supreme
8 Court has held that a party seeking a stay must show "a clear case
9 of hardship or inequity in being required to go forward, if there
10 is even a fair possibility that the stay . . . will work damage to
11 some one else." Landis v. N. Am. Co., 299 U.S. 248, 255 (1936).
12 The government has failed to show any hardship or inequity to
13 justify a stay of these proceedings.

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15 If the Court grants the § 2255 motion, it will proceed to
16 resentencing. Execution of any new sentence would be stayed and
17 contingent on the Supreme Court's decision in Beckles, but the
18 parties would be able to proceed with any appeals.

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20 IT IS SO ORDERED.

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22 Dated: August 2, 2016

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24 CLAUDIA WILKEN
25 United States District Judge
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